

# Steering Committee on Arizona Case Processing

**Monday, October 22, 2012**

2:00 p.m. to 5:00 p.m.

State Courts Building

1501 W. Washington, Phoenix, AZ 85007

Conference Room 106

**Approved: 01/24/2013**

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**Present:** Justice Robert Brutinel, Mr. Kent Batty, Judge Peter Cahill, Judge Jill Davis, Judge Richard Fields, Judge Pamela Frasher Gates, Mr. James Haas, Mr. Don Jacobson, Judge Eric L Jeffery, Judge Kenton Jones, Ms. Sandra Markham, Ms. Michelle Matiski, Judge Steven McMurry, Judge Mark Moran, Judge Rosa Mroz, Ms. Jane Nicoletti-Jones, Judge Antonio "Tony" Riojas, Judge Sally Simmons, Mr. William "Bill" Verdini.

**Absent/Excused:** Judge Sherry Geisler, Judge John Rea, Mr. John W Rogers

**AOC Staff:** Ms. Amy Wood, Ms. Cindy Cook, Ms. Jerri Medina

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## **I. Regular Business**

### **A. Welcome and Opening Remarks**

The October 22, 2012 meeting of the Steering Committee on Arizona Case Processing Standards was called to order by Chair, Honorable Robert Brutinel, at 2:02 p.m. In welcoming the Steering Committee on Arizona Case Processing Standards, Justice Brutinel expressed his appreciation to the committee members for agreeing to participate and share their expertise on this project.

Introductions were made by each of the committee members and staff present.

## **II. BUSINESS ITEMS, PRESENTATIONS AND POTENTIAL ACTION ITEMS**

### **A. National Center for State Court's Model Time Standards**

Justice Brutinel stated that in August, 2011, the National Center for State Courts published the **model time standards for state trial courts**. The standards for disposition of cases were developed and adopted by the State Court Administrators (COSCA), Conference of Chief Justices (CCJ), American Bar Association House of Delegates (ABA), and the National Association for Court Managers (NACM). There are 15 case types included in the national model for both limited and general jurisdiction courts.

Dan Hall from the NCSC will speak on the National Time Standard's Model at the Judicial Leadership conference tomorrow. Committee members were encouraged to attend and ask questions regarding specifics to the NCSC approach in developing this model.

According to the administrative order the committee shall review the national time standards for processing all major case types in limited and general jurisdiction courts and develop and recommend state case processing standards for Arizona. The committee will take into account statutory requirements, court rules, court jurisdiction, and any other relevant factors in recommending statewide case processing standards. Overall, there are several good reasons to engage in this process. This committee includes a broad cross section of stakeholders across the state with expertise in all the case types, and the different levels of court. The development of case processing standards will allow the courts to measure how they are doing and determine if they are meeting the expectations of the public and the legal community by the timely resolution of cases. These standards will also be helpful when addressing your local funding agencies. The statistics and data collected can be used to detail your achievements or to explain why more resources are needed to resolve or to further exploit those successes.

A concern was raised regarding the implications of standards being published about specific judges without the context of the situation an individual faces (such as complexity of cases, or resources available). The standards are to be used as a management tool to assist judges and administrators in managing their caseloads. It is important for the standards to be realistic, and should be helpful to the courts and judges when making a determination as to how efficiently cases are being handled. Although, there will still be people who will not like the data when the reports for time standards are run, standards are still important.

## **B. Stakeholder's Review Process**

Ms. Amy Wood presented to the committee the proposed process for the adoption of case processing standards in Arizona and the role of the steering committee. The steering committee members will review the preliminary analyses that were drafted by an internal workgroup at the AOC. This preliminary analysis has been posted on the Arizona Case Processing Steering Committee website ([link](#)) and includes the proposed case processing standards for all the case types identified in the national model as well as a few additional case types. This review needs to be completed and presented to the steering committee members at the next meeting in January. The steering committee members will be assigned to workgroups. The workgroups will review and present the proposed case processing standard for each case type. (i.e. criminal felony, juvenile abuse and neglect) to the steering committee.

The goal is to remove or revise the preliminary proposed case processing standards currently located on the website by February 15, 2013 and replace them with the proposed case processing standards created by the steering committee. The website will be used to receive further comments from standing committees, legal associations and courts. The more feedback received the better.

The website will be available for the posting of comments until April or May 2013. Members of the steering committee may be contacted during this time to respond to comments posted on the website. After the comment forum is closed revisions will be

made to the proposed case processing standards based on comments received through the website.

June- September 2013 final draft of the proposed case processing standards will be presented to the standing committees for modification or approval.

October- December 2013 final draft will be presented to the AJC for adoption or further modification. (See path to approval document in the meeting materials)

Amy also previewed the forum/comments website that will be presented to the Judicial Leadership Conference tomorrow. This is an open forum for the legal community which in turn should give us access to comments from a broader base across the state. The website link is: <http://www.azcourts.gov/caseprocessingstandards/Home.aspx>

### **C. Legal Analysis and Preliminary Proposal**

Ms. Cindy Cook discussed the preliminary analysis done by an internal workgroup at the Administration of Courts Office. This work group was comprised of attorneys on staff at the AOC, project specialists and division directors experienced in particular areas of case processing. The workgroup reviewed the Arizona rules and statutes to determine if there is any Arizona rule or statute that would prevent Arizona from comporting with the national model time standards. The national model time standards are broken into five main case categories: civil; criminal; family law; juvenile; and probate. Then each category is broken out further into three case types for a total of fifteen case types. In the preliminary analysis of Arizona rules and statutes the internal workgroup suggested expanding the number of case types to eighteen. See the high level summary and detailed analysis in the meeting materials for a list of case types. Cindy discussed the three additional case types.

1. The national model included eviction actions with the small claims and local ordinances case type. Analysis of Arizona statutes revealed stringent timelines for eviction actions which would suggest that Arizona develop a separate standard for eviction actions.
2. The national model included driving under the influence (DUI) with the criminal misdemeanor case type. Arizona has done substantial work in the area of DUI and had already established standards specific to DUI cases. This work supports the idea of having a separate standard for DUI cases in Arizona.
3. The national model has one standard for civil cases. Arizona's court structure breaks civil cases between Superior and Justice Courts. This break suggests that separate standards for each level of court may be warranted in Arizona.

As the committee work groups move along with their research and analysis we may expand these case types further.

The following case types comport with the national model time standards:

- Probate Administration of Estates
- Probate Guardianship/Conservatorship of Incapacitated Adults
- Probate Mental Health Cases
- Juvenile Termination of Parental Rights
- Criminal Post Conviction Relief
- Criminal Felony
- Family Law Post Judgment Motions
- Family Law- Dissolution, Legal Separation, Paternity

Other Notable Exceptions for consideration in Arizona are as follows:

- Criminal Traffic – The national model refers to criminal traffic cases for case types that in Arizona would be considered civil traffic. Rules and statutes in Arizona comport with the national model.
- Family Law Protection Orders – initial review suggests that Arizona may have to adopt its own standard for the ex parte hearing. Arizona should comport with the national model on contested hearings.
- Juvenile Delinquency and Status Offense – initial analysis suggests that Arizona rules and statutes would require faster standards than those suggested by the national model.
- Juvenile Neglect and Abuse – initial analysis suggests that Arizona rules and statutes would require faster standards than those suggested by the national model.

Discussion regarding the standards and the case types ensued:

***DUI Cases:*** *Is there any consideration in the standards regarding the complexity of statutes that may exist in Arizona for DUI cases that do not exist in other states? There are some real issues in the state of Arizona particularly with the crime lab and we are going to need to decide based on those complexities what standards fit Arizona. There are two possible options for DUI cases: 1) adopt the existing standards for Arizona or 2) reject the existing standards and adopt the national model time standard for misdemeanor cases.*

***Civil Cases and Level of Court:*** *Should there be a separate standard for justice court cases versus superior court cases? We broke them out for further work group discussion but both superior and justice courts currently have the same standards.*

*The detailed analysis for the justice courts is based on the new justice court rules which have an effective date of January 2013.*

***Eviction Action:*** *A different time standard may need to be developed for eviction cases in superior court. Add eviction actions to the superior court civil workgroup.*

***Protection Orders:*** *Normally we would see 99% within an hour even if presented telephonically. Most courts move other cases to get orders of protection addressed*

*immediately. Discussion on 24 hours or a day time standard, continue these talks within the committee work group.*

Cindy discussed some of the terminology used in the national model for time standards to acquaint the committee with some ideas that may be employed in their discussions about each case type.

- Intermediate standards – time goals for completing critical milestones during the life of a case, prior to final case resolution.

*Discussion: Does the committee want intermediate standards in any of the case types? In the preliminary analysis it was suggested we might want intermediate time standards for temporary orders in a family law case.*

- Measurement – when should we start the clock? Workgroups need to discuss where the count of time should start and end.

*Discussion: Where do the service requirements fall into these requirements? Can we start counting after service has been obtained? Many of the case management systems do not track service returns or they are hard to track. The filing date is an easy date to track in the case management systems. Filing date versus service date will be discussed in the workgroups.*

*The national model starts measuring from the date the petition is filed. . Should the courts in Arizona consider shortening the time of service, so they can meet the time standards? Filing of service is often used as a tool for the continuance of cases. In many cases, especially family law cases, service may not be obtained until after 120 days, which would mean the courts would not be able to meet the time standards.*

*The time standards for felony cases are not the same as the “speedy trial rule” which requires dismissal if the time is not met. These standards are intended to measure and manage the overall time to disposition which is different from a speedy trial rule that protects rights for the individual criminal defendant. The AJACS case management system does not exclude some of the specific time and we will need to discuss this more in depth in the work groups.*

- Interim Goal – for national goals beyond Arizona’s reach, consider provisional goals with a gradual phase-in of the shorter time goals.

*Discussion: For example in criminal cases, current statistics show a significant gap between the national standard and current statistics for felony cases in 2011. The committee may want to discuss the development of interim goals for felony cases.*

Cindy explained that data is collected in court case management systems (CMS). There may be challenges in what data is available in various systems.

Arizona has a variety of court case management systems: In the superior courts Maricopa County has iCIS, Pima County has AGAVE and the other thirteen counties have AJACS. In the justice and municipal courts the court management systems are AZTEC, AJACS, iCIS, and a few other case management systems. It may be difficult to obtain comparable data on a statewide basis. The committee may want to evaluate the data that is available and determine how reliable that data is.

*Discussion: Members of the committee acknowledged that many of the case management systems do not track post judgment motions in family law cases or track probate matters. Staff is responsible for following up on this issue prior to the next committee meeting.*

The model time standards are based on a tripartite model. There are three tiers of cases. The first tier which normally includes a large proportion of cases 50% or more will dispose of the cases with little court involvement. The second tier will dispose of the case after one or two issues are resolved and the smallest proportion 3 to 5% of cases do not get resolved without a trial.

*Discussion: Is there any correlation to case processing and case load? Is there any consideration with how many times you pick up a file? Those familiar with the work of the NCSC on case time standards state they did not take into consideration the number of times you picked up a case. It was strictly focused on the flow of a case through the courts as it's required to fulfill the duties/needs of the case.*

*The steering committee is not to take costs into account or prioritize in the event there are scarce resources. The standards should only focus on the efficient handling of cases so timely resolution can be achieved. The courts may need additional money to accomplish the timely resolution of cases but in turn the funders may not be willing to spend the money on the justice system. The standards can still be utilized for raising funds. This is the goal we are trying to achieve and these are the resources needed to achieve that goal.*

*The smaller courts with a low percentage of filings may have a hard time meeting the mathematical percentages. If one case is not disposed within the time standards the percentages are skewed. This was an issue that was raised during the DUI pilot. Some DUI pilot courts felt that they could never meet the standard; they were either meeting it at 100% or 75% because of the small number of filings. This can be resolved mathematically by extending the reporting time period. Statewide we may meet these standards but some of the smaller courts may not be able to meet these standards due to staffing or resource issues.*

*The committee discussed the use of statistical reporting as a long term management tool and how the data will be utilized. Trial court performance standards have been around for a number of years including the use of CourTools nationwide. The standards are management tools, and can be published as statewide numbers in a way that limits the ability to take advantage or misuse the numbers. As a committee we must have some trust in the process as a tool and*

*that it will not to be used to erroneously attack judges or administrators. The results will be public, and may subject the court processes to scrutiny. The committee should establish case processing standards that are achievable but still encourage improvement in the Arizona courts. Once the standards have been established, the courts need to build reports for the case management systems that will track the data. This data will then be used to figure out what is working and how the courts might improve. If these reports clearly define the terminology being used and what is being measured, then everyone should be on the same page and any misconceptions or misuse of the data should be avoided.*

*How will you go about finding the data to review the statistics? Goal of the committee according to the administrative order is to issue a report of the workgroups with the definitions of the goals and standards. The point to doing this is that we will find the statistics and come up with a plan to keep track of the things we want to manage. Currently, there are things we do not measure, such as post dissolution cases and if they become one of our standards then we would require modification on case management systems that enable us to generate reports once we have the standards.*

*The data on the DUI pilot project had to be cleaned up before the courts could rely on the information. On the DUI project the courts set the case processing standard and then trained the attorneys' to meet that standard verses letting the case "flow" through the court. The attorneys and parties then had an expectation of what should be happening in the case instead what had happened in the case. Courts were expected to drive the pace of litigation instead of the attorney's as it moved through the system. The data got better as we continued to look at it and understand it. The old adage of "you care about what you count" can also assist in focusing on gathering reliable data.*

*The committee is not here to drive change in the culture of the courts. However, if the culture changes as a direct result of what we are doing by holding the court system accountable to specific measurements and standards we all benefit. A good example of that was when the case processing standards changed for dependency cases in the late 1980's. This was a good example of a change in the culture in a positive way and how time standards can change the cultural expectations in the court staff. Time limits that are rigidly imposed can affect the overall cultural expectations. We enforce the rules which indeed change the culture. As a committee we are here to figure out the rules and then we gather the statistics.*

#### **D. Work Group Assignments**

Justice Brutinel discussed work group assignments and time line expectations. Work group assignments are based on expertise and experience of the members, however members interested in serving on additional work groups may feel free to volunteer. Several adjustments and clarifications were made to the scope of work of each work group.

- Misdemeanor cases are assigned to the criminal municipal and justice court work group, but superior court representatives can review this work.
- Family law, protection orders and injunctions against harassment were assigned to the justice and municipal courts workgroup. There are a relatively small number of orders of protection filed in superior court. Judge Sally Simmons from the superior court will be added to the workgroup on protection orders. In addition an email will be sent to the family law work group when the orders of protection work group meeting is set so they can attend.
- Mr. Kent Batty requests to sit on the Superior Court civil cases.

Cindy will contact individual chairs to setup workgroup meetings with the idea that the work group will be done by the next steering committee meeting.

The chair of the workgroups can invite other members of the legal community to the workgroup meetings if their expertise is needed.

See attachment #1 – Updated Workgroup Assignments

### **E. Next Steering Committee Date Proposals**

It was decided to send out meeting requests once everyone was back at their offices and could look at their calendars.

Friday, January 11, 2013

Wednesday, January 16, 2013

Thursday, January 24, 2013

*10am to 1pm*

### **III. Old Business**

#### **A. None**

### **IV. Call to Public**

#### **A. Good of the Order/Call to the Public**

No one came forward to speak.

### **V. Adjourn**

#### **A. Motion: To adjourn at 4:00pm.**

Motion was seconded and passed.

#### **B. Next Committee Meeting Date:**

Friday, January 24, 2013 - 10:00 a.m. to 2:00 p.m.



State Courts Building, Room 106  
1501 W. Washington St., Phoenix, AZ 85007

# ATTACHMENT #1

Updates to the work groups made during the October 22<sup>nd</sup> meeting appear in red in the chart below.

ARIZONA CASE TYPES	WORKGROUP ASSIGNMENTS
<b>JUSTICE AND MUNICIPAL COURTS</b>	
<b>Municipal and Justice Court Cases:</b> 1) Criminal Misdemeanor 2) Civil – Traffic 3) Civil Local Ordinances 4) DUI Misdemeanor Cases	Judge Tony Riojas (Chair) Judge Eric Jeffery Judge Sherry Geisler Judge Jill Davis Judge Steven McMurry Don Jacobson, Court Administrator Jane Nicoletti-Jones, County Attorney's Office James Haas, Public Defender's Office
5) Family Law Protection Orders 6) Injunctions Against Harassment (included in protection orders does this need to be a separate case type? If so, email civil group	Judge Tony Riojas (Chair) Judge Eric Jeffery Judge Sherry Geisler Judge Jill Davis Judge Steven McMurry Don Jacobson, Court Administrator Jane Nicoletti-Jones, County Attorney's Office James Haas, Public Defender's Office Judge Sally Simmons Email family law workgroup
<b>Justice Court Cases:</b> 7) Civil Cases in Justice Court 8) Civil Small Claims and Local Ordinances 9) Civil Eviction Actions	Judge Jill Davis (Chair) Judge Sherry Geisler Judge Steven McMurry Bill Verdini, Public Member

## SUPERIOR COURTS

1) Juvenile Delinquency and Status Offense 2) Juvenile Neglect and Abuse 3) Juvenile Termination of Parental Rights Do we want to develop a standard for minor guardianship/ conservator cases? (Leadership conference) Do we want to develop a standard for adoption cases? (Leadership conference)	Judge Peter Cahill (Chair) Justice Brutinel Judge Sally Simmons Sandra Markham, Clerk of Court Jane Nicoletti-Jones, County Attorney's Office James Haas, Public Defender's Office
4) Criminal Felony 5) Criminal Post Conviction Relief	Judge Richard Fields (Chair) Judge Mark Moran Kent Batty, Court Administrator Jane Nicoletti-Jones, County Attorney's Office James Haas, Public Defender's Office
6) Civil Cases in Superior Court 7) Civil Eviction Actions  Medical Malpractice –separate standard or part of the 2% of cases that may go longer (Leadership conference)	Judge John Rea (Chair) Judge Richard Fields Judge Kenton Jones John Rogers, Perkins Coie LLP Michelle Matiski, AETNA Corp Bill Verdini, Public Member Kent Batty, Court Administrator
8) Family Law Dissolution 9) Family Law Post-Judgment Motions	Judge Pam Gates (Chair) Judge John Rea Judge Mark Moran Kent Batty, Court Administrator John Rogers, Perkins Coie LLP
10) Probate Administration of Estates 11) Probate Guardianship/Conservator 12) Probate Mental Health Cases  Do we want to develop a standard for minor guardianship/ conservator cases? (Leadership conference)	Judge Rosa Mroz (Chair) Judge Kenton Jones Judge Peter Cahill Michelle Matiski, AETNA Corp John Rogers, Perkins Coie LLP